



Committee Report

Date of Report: 05, 24, 2023
Date & Type of Meeting: 06, 14, 2023, Rural Affairs Committee
Author: Zachari Giacomazzo, Planner
Subject: DEVELOPMENT VARIANCE PERMIT
File: V2301B
Electoral Area/Municipality B

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit in Electoral Area 'B'. The variance would authorize the applicant to construct a one-storey addition at the rear of the existing dwelling that would be sited 1.4 m from the southern interior lot line whereas the bylaw requires a setback of 2.5 metres for buildings or structures from interior lot lines. Staff recommend that the Board approve the Development Variance Permit.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Sherri P. Verstoep

Property Location: 318 27th Avenue N., Erickson, Electoral Area 'B'

Legal Description: LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000
(PID: 027-092-372)

Property Size: 0.2 hectares (0.49 acres)

Current Zoning: Agriculture 1 (AG1)

Current Official Community Plan Designation: Agriculture (AG)

SURROUNDING LAND USES

North: Agriculture (AG) (ALR)

East: Agriculture (AG) (ALR)

South: Agriculture (AG) (ALR)

West: Suburban Residential (RS)

Background Information and Subject Property

The subject property is located in Electoral Area 'B' east of the Town of Creston. The property is part of survey plan NEP84000, a two lot subdivision created in 2007. The property is entirely within the ALR and surrounded by the Agriculture 1 (AG1) zone on three sides. To the west is Suburban Residential (R1) zone.

An existing dwelling, and 4 accessory buildings (detached garage, shop, sheds) occupy the site. The property is serviced by the RDCK-operated Erickson water system and an on-site wastewater (septic) system.

The proposal is to construct a 19.2 m² one-storey addition with a roof-top deck at the rear of the existing dwelling. The proposed addition would provide for additional living space but does not increase the number of bedrooms or bathrooms. The existing dwelling is encroaching into the required 2.5 metre setback, however the information obtained from BC Assessment indicates that the dwelling was constructed in 1934 which pre-dates any zoning bylaws in Electoral Area 'B'. Due to the proximity of the existing dwelling to the southern interior lot line, the proposed addition would be constructed at a distance of 1.4 metres from the lot line at the closest point. Please see Figure 2: Site Plan, for more detail.

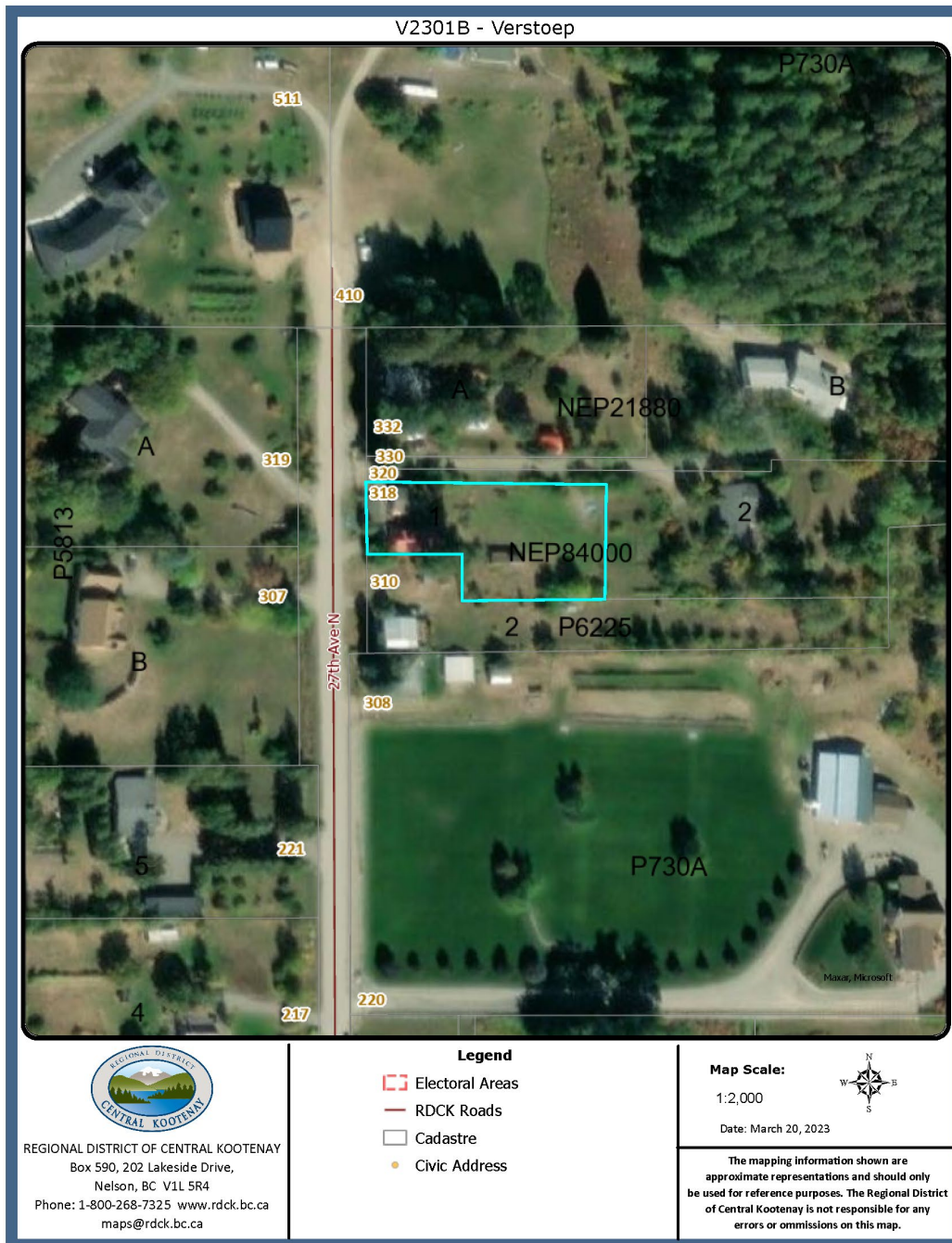


Figure 1: Overview Map

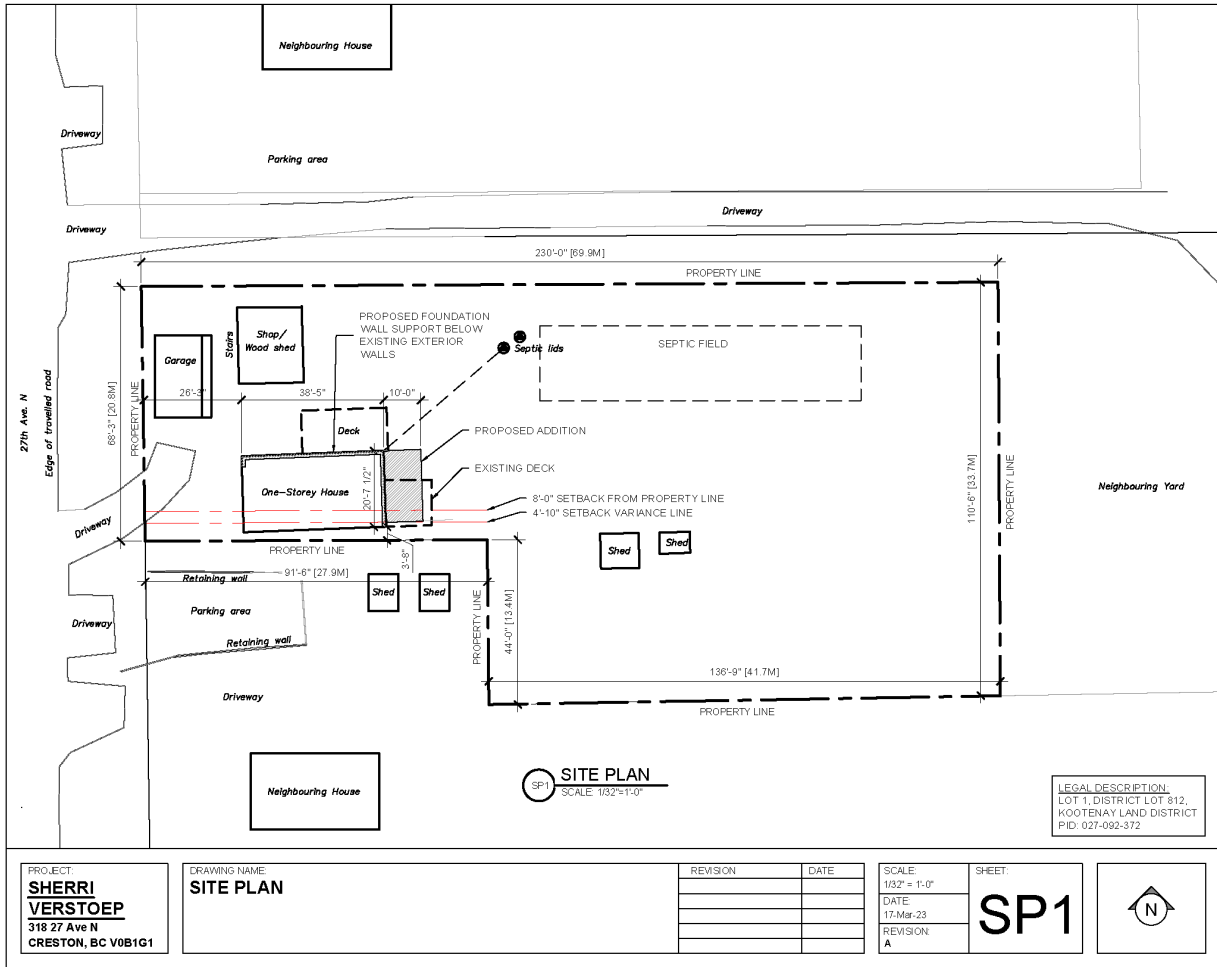


Figure 2: Site Plan

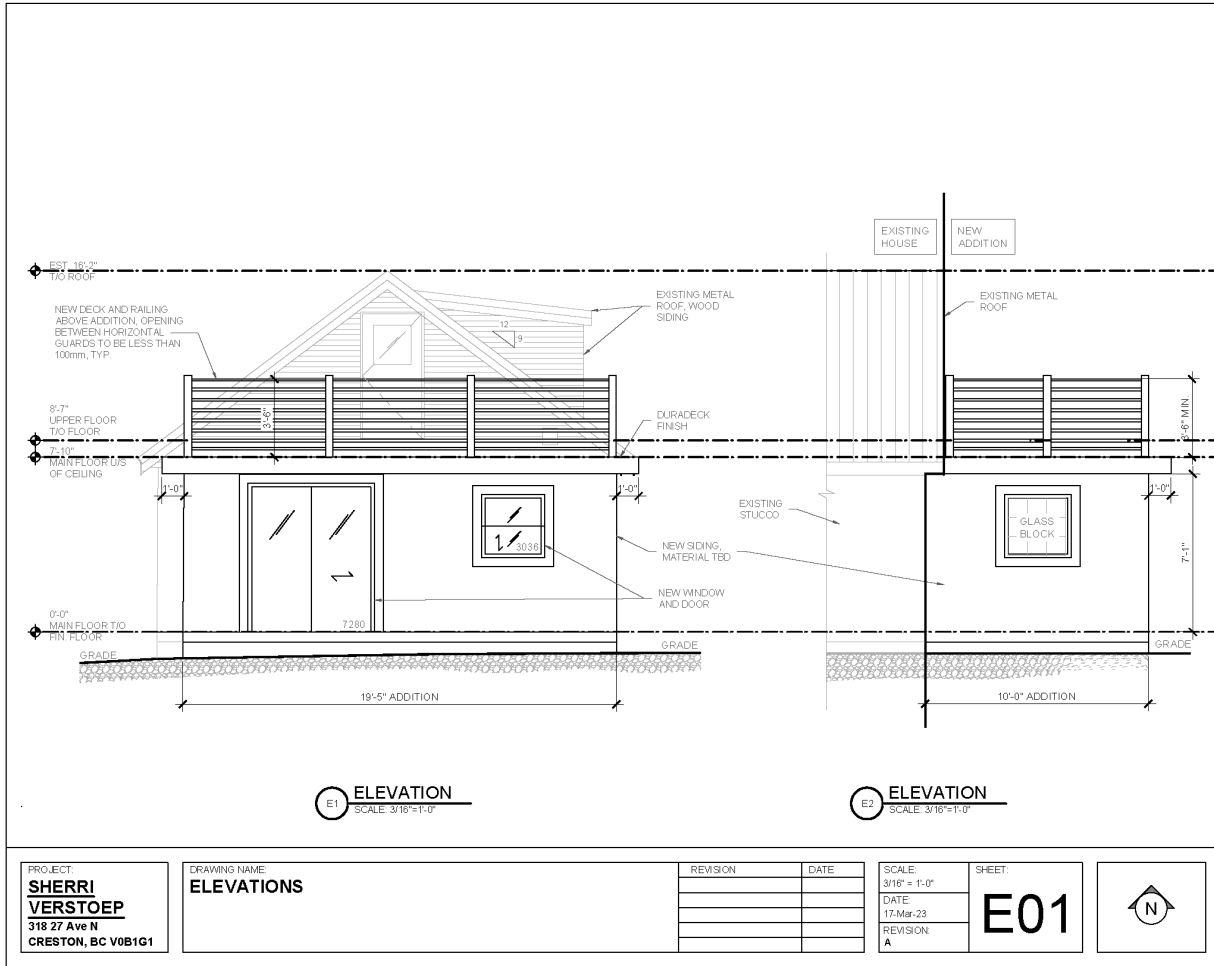


Figure 3: Elevation Plans for the proposed addition

Planning Policy

Electoral Area ‘B’ Comprehensive Land Use Bylaw No. 2316, 2013

Agriculture (AG) Policies

The Regional Board:

- 14. May require that new development adjacent to agricultural areas provide sufficient buffering in the form of setbacks, fencing or landscaping.
- 16. Supports directing intensive agricultural operations to larger lots or increasing building setbacks and other possible mitigation measures to prevent potential conflicts with adjacent land uses.
- 17. Supports the use of minimum and maximum setback distances for residential development and the clustering of built structures on agricultural lands to reduce the impact to agricultural potential and operations.

Community Specific Policies

Erickson

1. Recognizes that the community is primarily characterized by a mix of small lot and large lot residential and agricultural parcels, the majority of which are located within the Agricultural Land Reserve and will allow for a mix of parcel sizes dependent on type of land use and agricultural activity.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: Yes No Financial Plan Amendment: Yes No
Debt Bylaw Required: Yes No Public/Gov't Approvals Required: Yes No

The application fee has been paid in full pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Section 498 of the Local Government Act gives authority to vary provisions of a zoning bylaw provided that they do not affect use and density.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

There was no opposition to the application which indicates that surrounding land owners do not have concerns.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to internal departments, other government agencies and 10 surrounding property owners. No responses were received from property owners. The following responses were received from government agencies.

RDCK Water Services

The property is serviced by the Erickson water supply system. Nothing further is required from Water Services because there is no new dwelling being proposed.

RDCK Building Services

If the addition is constructed 3 ft 8" (1.118m) from the property line, the wall facing the property line will have to be constructed with no openings (windows or doors) and with a 45 minute fire resistance rating. The soffits may not project closer than 0.45m from the property line and must be non combustible non vented type. Cladding will have to be the non-combustible type.

Interior Health Authority – Team Leader: Healthy Community Development

If the proposed "flex room" is intended to be used as an additional bedroom or will increase the daily sewerage flow from the residence, we recommend RDCK require the applicant to provide records of the Filing and Letter of Certification for the existing sewerage disposal system to ensure and confirm that the existing sewerage

dispersal system has adequate performance, condition, size and location for the intended use (as per Section 7.2 of the Onsite Wastewater Certification Board Policy: APPENDIX 2, Registered Onsite Wastewater Practitioner (ROWP) Practice Guidelines).

If Filing documents cannot be produced for the existing sewerage disposal system, we would advise the RDCK request a Compliance Inspection be completed by an Authorized Person to ensure the existing sewerage disposal system will be able to handle the flow / volume produced being connected to it, that it does not pose a health hazard/risk and that it meets the required vertical and horizontal separation distances as well as today's Sewerage System Standard Practice Manual, Version 3 standards.

Staff Note: The applicant has confirmed that the proposed "flex room" will not be used as an additional bedroom and the addition will not increase the daily sewerage flow from the residence. The above comments have been forwarded to Building Services to consider in their review of the building permit application for the proposed addition.

Ministry of Transportation and Infrastructure – Development Officer

No comments provided.

Ministry of Forests – Habitat Biologist

The proponent must be aware of, and comply with, obligations under the federal Fisheries Act, Species at Risk Act, BC Wildlife Act, BC Riparian Areas Protection Act (where applicable), Local Government Act or any other legislation related to the proposed works.

This project should not create significant adverse environmental impacts if the proponent follows all of the applicable regulatory acts, implements measures to prevent introduction and/or reduce the spread or establishment of invasive plants on site, and adequately secures wildlife attractants.

Fortis BC

Land Rights Comments

- *There are no immediate concerns or requests for additional land rights, however there may be additional land rights requested stemming from changes to the existing FortisBC Electric ("FBC(E)") services, if required.*

Operational & Design Comments

- *There are FortisBC Electric ("FBC(E)") primary distribution facilities along 27 Avenue N.*
- *All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.*
- *The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.*
- *For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.*

Electoral Area 'B' APHC

The following was discussed:

- *Purpose of the variance application*
 - *Ms Verstoep briefly summarized the purpose of the application.*
- *Purpose of zoning setbacks relative to spatial separation requirements*

- RDCK staff explained the purpose of setbacks and the difference between a zoning setback and spatial separation requirements.
- **Benefits vs liabilities:**
 - Current configuration is non-conforming, extension would exacerbate the situation, limit opportunities for adjacent owner to build adjacent subject property line, would establish poor precedent.
 - House is old, has likely existed since prior to zoning. Compliant extension would create awkward space, would not limit impact which is softened by neighbouring outbuildings, mature trees.
- **Building Code compliance and building permit requirements**
 - RDCK staff advise that BP has been applied for and that it is a separate regulatory process which will address spatial concerns and undergo regular inspection through construction/occupancy. Permit will be issued subject to conditions following Board approval of the application.

Moved and seconded,
AND Resolved:

*That the Area B Advisory Planning Commission **SUPPORT** the approval of Development Variance Permit V2301B for the property located at 318 27 Av N and legally described as LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000 to allow the south property line minimum setback to be reduced from 2.5 metres to 1.4 metres in order to permit the construction of an addition to the rear of the existing one-family dwelling*

3.7 Staffing/Departmental Workplace Considerations:

Should the Board approve the requested variance, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required prior to constructing the addition.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS

Planning Discussion

Planning staff support the issuance of this DVP since:

- The requested variance to reduce the required setback from 2.5 metres to 1.4 metres is a minor change.
- The form and character of the surrounding residential area is not significantly impacted by the request to reduce the setback from the southern interior lot line.
- The proposal is consistent with all other applicable zoning regulations in the Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316
- There has been no opposition or feedback in response to the notice of proposal sign posted on the subject property or the notice that was mailed to surrounding landowners.

Based on the above, staff recommend that the Board approve the issuance of the Development Variance Permit Application.

Option 1

That the Board APPROVE the issuance of Development Variance Permit V2301B to Sherri P. Verstoep for the property located at 318 27th Avenue N. and legally described as LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000 (PID: 027-092-372) to vary Section 16 (17) of Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2022 in order to permit a 1.4 metre setback from the southern interior lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2301B to Sherri P. Verstoep for the property located at 318 27th Avenue N. and legally described as LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000 (PID: 027-092-372) to vary Section 16 (17) of Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2022 in order to permit a 1.4 metre setback from the southern interior lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2301B to Sherri P. Verstoep for the property located at 318 27th Avenue N. and legally described as LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000 (PID: 027-092-372) to vary Section 16 (17) of Rural Creston Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2022 in order to permit a 1.4 metre setback from the southern interior lot line whereas the bylaw requires a 2.5 metre setback from an interior lot line.

Respectfully submitted,

Zachari Giacomazzo

CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight

General Manager Development & Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

ATTACHMENTS:

Attachment A – Development Variance Permit

Attachment B – Excerpt from *Comprehensive Land Use Bylaw No. 2316, 2013*



Development Variance Permit

V2301B (Verstoep)

Date: May 18 2023

Issued pursuant to Section 498 of the *Local Government Act*

TO: SHERRI P. VERSTOEP

ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 318 27th Avenue N., Erickson, Electoral Area 'B'

Legal: LOT 1 DISTRICT LOT 812 KOOTENAY DISTRICT PLAN NEP84000

PID: 027-092-372

CONDITIONS

5. Development Variance

Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013 Section 16 (17) is varied as follows:

From: Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

To: Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 1.4 metres of the southern interior lot line, as shown in Schedules '1' and '2'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

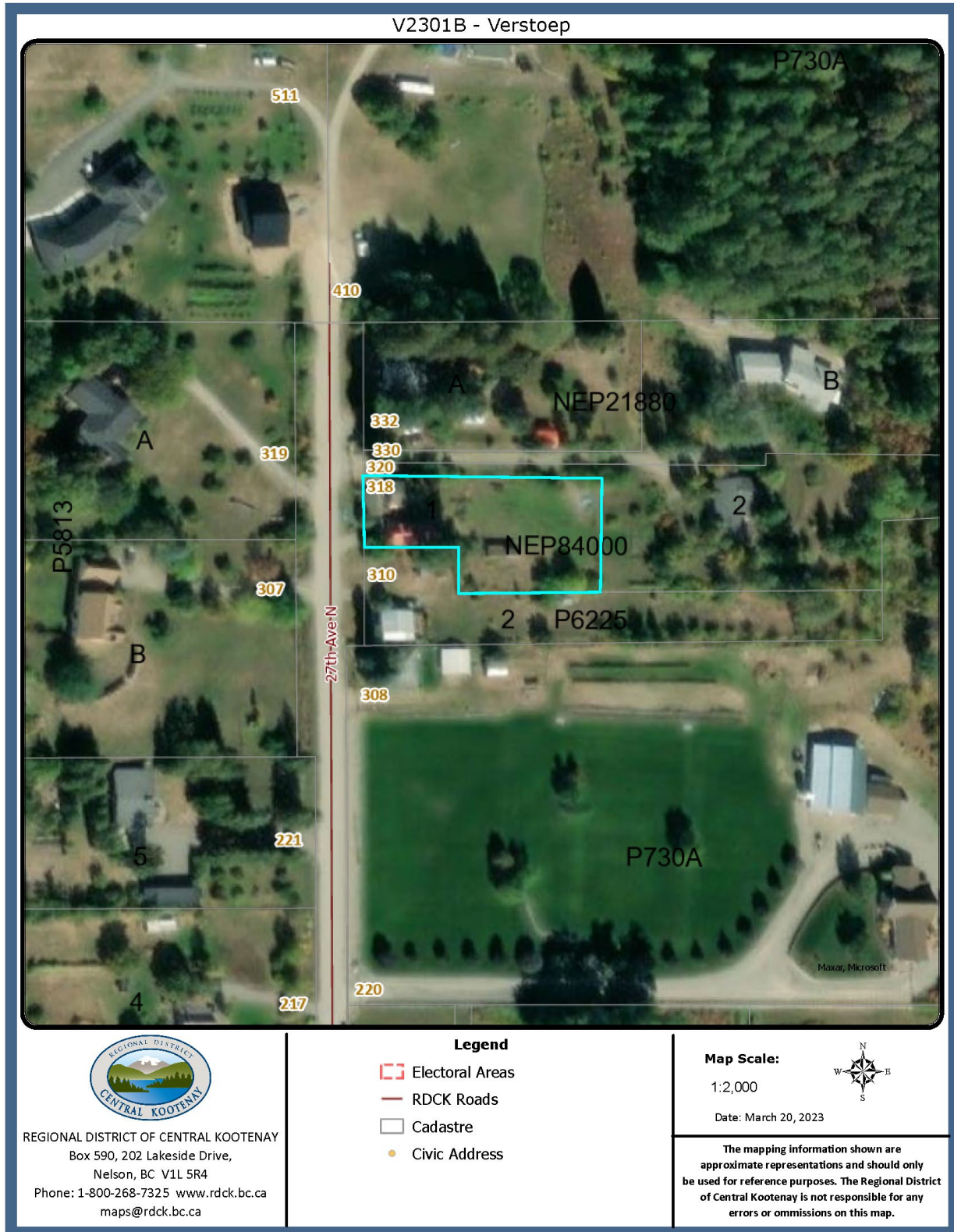
Authorized resolution **ENTER RESOLUTION NUMBER** passed by the RDCK Board on the 15th day of June, 2023.

The Corporate Seal of
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY
was hereunto affixed in the presence of:

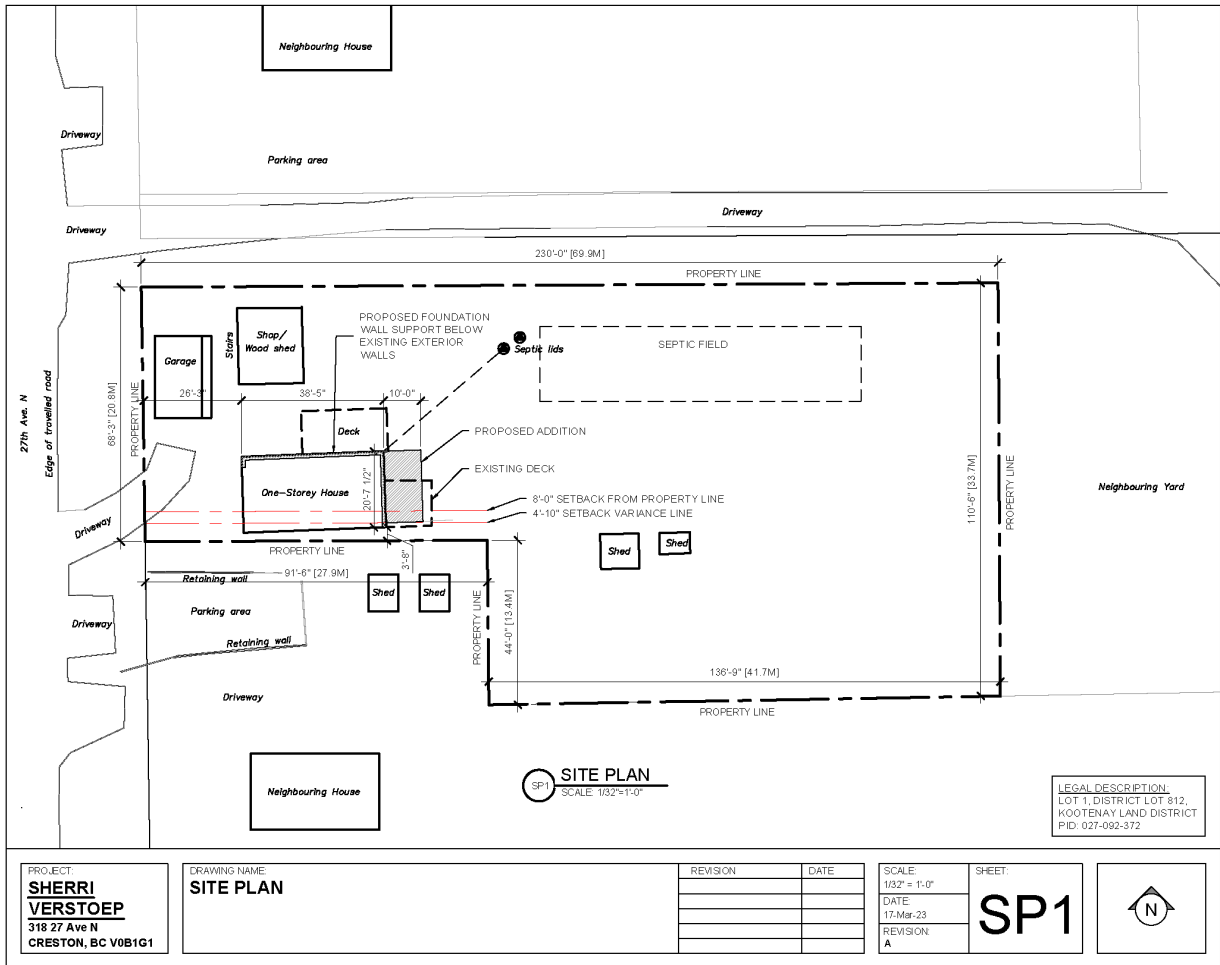
Aimee Watson, Board Chair

Mike Morrison, Corporate Officer

Schedule 1: Subject Property



Schedule 2: Site Plan



Setback Requirements

17. Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.
18. Despite subsection 17, buildings and structures shall be setback a minimum of fifteen (15) metres from lot lines adjacent to the Agricultural Land Reserve boundary.
19. Unless otherwise stated, no portable sawmill may be located within 100 metres from a property line.
20. Despite Section 16.0 (18), on all lots less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres.

Setback Exceptions

21. Where the top surface of an underground structure projects no more than 0.6 metre above the average finished ground elevation, that structure may be sited in any portion of a lot.
22. Freestanding lighting poles, warning devices, antennae, masts, solar collectors, utility poles, wires, flagpoles, up to ten (10) metres in height may be sited on any portion of a lot.
23. Where chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows, or ornamental features project beyond the face of the building, the minimum distance to an abutting lot line as permitted elsewhere in this bylaw may be reduced by not more than 0.6 metre providing such reduction shall apply only to the projecting feature.
24. Where steps, eaves, sunlight control projections, canopies, balconies, or porches project beyond the face of a building, the minimum distance to an abutting front lot line as permitted elsewhere in this bylaw may be reduced by not more than 1.2 metres and the minimum distance to an abutting site lot line or rear lot line as permitted elsewhere in this bylaw may be reduced by not more than 0.6 metre provided such reduction shall apply only to the projecting feature.

Height Regulations (Airport Lands)

25. All buildings and structures within 350 metres (1,150 feet) of the take-off or approach area of an airport will be restricted to a height of 15.0 metres (49 feet).

Home Based Businesses

A Home Based Business, where permitted, is subject to the requirements that:

26. The proprietor resides on the subject property;
27. The activity shall be conducted in a dwelling unit or accessory building;
28. The floor area devoted to the Home Based Business shall not exceed 100 square metres on any R1, R2, R3, R5, R6, and AG zoned lot;
29. The floor area devoted to the Home Based Business shall not exceed 200 square metres on any lot R4 zoned lot;